

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Wesley Hayworth,**  
Petitioner-Appellant,

v.

**Polk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1206**  
**Parcel No. 110/05579-000-000**

On May 20, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Wesley Hayworth was represented by Mike Holzworth of Holzworth Law Firm, Des Moines, Iowa, and submitted evidence in support of his petition. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its legal representative and submitted evidence in support of its decision. The Appeal Board now having reviewed the record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Wesley Hayworth, owner of property located at 1448 East Jefferson Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2009, assessment and valued at \$58,800; representing \$20,000 in land value and \$38,800 in the improvement value. Hayworth protested to the Board of Review on the grounds that 1) the property is not equitably assessed under Iowa Code section 441.37(1)(a); the property was assessed for more than authorized by law under section 441.37(1)(b); and there is an error in the assessment under section 441.37(1)(d). In response to the protest the Board of Review reduced the assessed value to a total of \$55,100; representing \$20,000 in land value and \$35,100 in building value. The Board of Review's reason for the change was, "This property was

changed in order to correct a clerical or listing error in the assessment.” Hayworth then appealed to this Board on the same grounds. He seeks \$15,600 in relief and values the property at \$39,500.

According to the property record card, the subject property is a one-story, frame dwelling built in 1915 with 632 square feet of main living area. The property has a 200 square-foot garage.

Hayworth submitted three comparables at hearing that ranged in sale price from \$63.00 to \$87.00 per square foot. Hayworth applied the average sale price per square foot to the subject property, which resulted in a value of \$49,664, and by applying the lowest sale price per square foot he arrived at \$39,500. However, the sale that equates to the lowest value per square foot appears to be an abnormal sale because it was from a lending institution. Lending institutions may not be willing sellers, and typically these transactions involve foreclosure sales or forced sales, which are abnormal unless adjusted under Iowa Code section 441.21(1)(b). Eliminating that sale, the range for the subject property’s value using the price-per-square-foot method would be from \$54,200 to \$54,350. These values are close to the subject property’s assessment, but still result in a lower value. These are newer, two-bedroom, better quality exterior and have 100% air conditioning.

Hayworth also submitted income and expense information since this is a rental property. But the income data did not equate to valuing the property using the income approach method since that method requires use of capitalization rate. This Board notes that residential income analysis is normally based on a gross rent multiplier, not a capitalization rate. The limited income evidence does indicate a very small return on the investment.

Finally, Hayworth submitted five recent one-bedroom sales (dating from March 2007 to October 2008) that, in his opinion, are similar in location and age to the subject property, and range in value from \$37,000 to \$50,000. Hayworth questions why the Board of Review appraiser did not consider these properties in his analysis. He also questions why the Board of Review’s independent



appraiser did not use the sales. These properties do appear similar to the subject, we note though, that they are not adjusted for land or size, but we cannot determine from the record that they should be.

The Board of Review introduced evidence of an independent appraisal conducted by Norman (Mike) Swaim. Swaim testified at hearing regarding his appraisal. Swaim's final reconciliation of value for the subject property was \$54,000 as of January 1, 2009, assessment date. Swaim did not do an income approach to value or cost approach method. Swaim testified he set a predetermined range of value from \$45,000 to \$65,000. He set this range because he assumed a range from 10% to 20% either side of the assessed value to be a correct range. We question Swaim's method of presetting a range of value based on the assessment. This is not typical in appraisal practice. Furthermore, this indicates Swaim's purpose for his appraisal was to support the assessed value rather than to do an independent market value analysis of the subject property. We also question the locations of the sales comparables Swaim selected because none are located in the neighborhood defined in his appraisal. He states "[t]he boundaries for the neighborhood are defined by University to the South, I-235 to the East, Euclid to the North and E 9th to the West. Not one of the sales Swaim selected fall inside the neighborhood boundaries and he makes no adjustments for location. He also did not explain why there is, or is not, a need for adjustments for location. Ultimately, we find neither Swaim's appraisal nor his testimony to be credible and, therefore, reject this evidence as indicative of market value.

The certified record includes sales information from an appraiser's analysis of protest comparables. We note that in the appraiser's analysis, the appraiser rejected the fifth comparable sale, but gave no reason for rejecting it. This sale is adjusted to the subject property. We consider this sale just as comparable to the subject property as the other four in the record, and therefore, consider it as part of our analysis. Additionally, although the data was completed to support the assessor's opinion of value and is before the Board of Review's opinion of value, this Board believes it supports a finding that the assessment is excessive.

The five comparables selected all have a higher grade factor (5% to 10%), using the IOWA DEPARTMENT OF REVENUE, IOWA REAL PROPERTY APPRAISAL MANUAL SEC. 3, 1-28 (2008), and the physical condition of the subject property is in normal condition, whereas five comparables selected are above normal or good. Four of the five homes are 100% air conditioned and are larger properties. This indicates the properties are all slightly superior to the subject. These facts would indicate the subject property's market value should be slightly less than any of the comparable sales' values.

This Board notes that the subject property's assessment is within the range of adjusted sales prices. But based on the fact that the subject is a one bedroom and has much smaller square footage than the comparables, we find in this factual situation that the median adjusted sales price per square foot is the best indicator of market value for the subject property.

The net adjusted value per square foot for the five comparables ranges from \$47.42 per square foot to \$84.06 per square foot. The median average is \$71.57 per square foot. This Board finds that the median average is a standard measure of central tendency, and therefore, the estimated market value of the subject property would be \$45,232. This value also falls within the range of the unadjusted sales submitted by Hayworth.

Very little evidence was presented regarding the equity claim or to indicate that an error regarding the basement area.

Reviewing all the evidence, we find the record shows by a preponderance of the credible evidence that the subject property is over-assessed. Based on adjusted and unadjusted sales information, specifically the appraiser analysis in the certified record, the correct assessment of the subject property should be \$45,232, using the median value-per-square-foot of adjusted sales.

### *Conclusions of Law*

The Appeal Board based its decision on the following law.



The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The appraisal commissioned by the Board of Review was unreliable because it was not an independent determination of market value. Turning to the other evidence in the record, the appraiser analysis shows the subject property is outside the range of market comparables. This is further supported by the unadjusted sales submitted by Hayworth. We find a preponderance of the

evidence, sales both adjusted and unadjusted but perhaps not requiring adjustment, support the claim the property is over-assessed. Additionally the record shows the correct assessment.

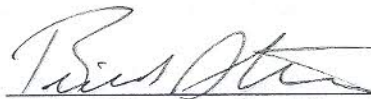
Neither party presented evidence regarding Hayworth's original claims of inequity or error, nor we will not address them.

We modify the assessment of the Wesley Hayworth property as determined by the Board of Review. The Appeal Board determines that the property assessment as of January 1, 2009, is \$45,232; representing \$20,000 in land value and \$25,232 in dwelling value.

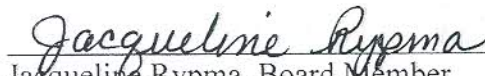
The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

THE APPEAL BOARD ORDERS the assessment of the Hayworth property, located at 1448 East Jefferson Avenue, Des Moines, Iowa, as of January 1, 2009, set by the Polk County Board of Review, is modified.

Dated this \_\_\_\_\_ day of July, 2010.



Richard Stradley, Presiding Officer



Jacqueline Rypma, Board Member

Copies to:

Wesley Hayworth  
2305 E 9th St.  
Des Moines, IA 50316  
APPELLANT

David Hibbard.  
Asst. Polk County Attorney  
111 Court Avenue, Room 340  
Des Moines, IA 50309  
ATTORNEY FOR APPELLEE

Jamie Fitzgerald  
Polk County Auditor  
111 Court Avenue, Room 230  
Des Moines, IA 50309

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7.29</u> , 2010 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight/Courier
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